

### **REMARKS/ARGUMENTS**

Claims 50-97 are pending in this case. Claims 50, 52, 60, 61, 80, 82, and 83 are amended. Claims 75-77 were previously cancelled, and claims 70-71 and 89 are now cancelled. New claims 98-102 are presented for examination.

The Examiner's Amendments attached to the Notice of Allowance of April 2, 2004 are incorporated into the claims.

Claims 82 and 83 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

Claim 82 has been amended to remove the redundant recitation of "cap layer". Claim 83 has been amended to refer to both plasma "processes" to remove any indefiniteness. No new matter has been introduced into amended claims 82 and 83. Claims 82 and 83 are now deemed to be allowable under 35 USC 112, second paragraph.

Claims 50-97 stand rejected under 35 USC 103(a) as being unpatentable over Tobben et al (US Patent No. 5,854,126) in view of JP 8-288285. The rejection of claims 50-97, as amended, is respectfully traversed.

Claim 50 has been amended to include a conductive layer on the wiring line layer, and that the cap layer provides "a graded index of refraction between said conductive layer and a photoresist layer". Support for the amendment to claim 50 is found in the specification, inter alia, at page 11, lines 19-29.

Claim 52 has been amended to claim that "the cap layer comprises an antireflective coating that operates by destructive interference, and said conductive layer comprises an antireflective coating that operates by absorption". Support for the amendment to claim 52 is found in the specification, inter alia, at page 11, lines 7-9.

Claim 60 has been amended to claim that "the remaining portion of the cap layer is adapted during an etch operation to have a shape that reduces redeposition of the cap layer into the gaps during the high density plasma chemical vapor deposition process". Support for the amendment to claim to claim 60 is found in the specification, inter alia, at page 13, lines 22-26.

No new matter has been introduced into amended claims 50, 52, and 60.

Claim 61 has been amended to include the limitations of claims 70 and 71. Claim 80 has been amended to include the limitation of claim 89.

Claims 50, 61, and 80, as amended, are deemed to be allowable over the combination of Tobben et al and JP 8-288285. Neither of these two references taken singly, or in combination, either teach or suggest the "graded index of refraction" implicating three material layers as now claimed. The present invention recognizes and claims the benefit of a "graded index of refraction" that is not recognized, taught, or suggested in either of the two cited references. Furthermore, it is deemed that a "graded index of refraction" is not merely a design choice, or an inherent property of the material layers, but rather a bona fide claim limitation involving three separate material layers that has specific benefits recognized by the inventors and should not be ignored. For this reason, claims 50, 61, and 80 are deemed to be patentable over the combination of cited references and allowable under 35 USC 103(a).

The remaining dependent claims, as well as the new claims presented for examination, are deemed to be allowable as being dependent upon an allowable base claim.

In view of all of the above, claims 50-69, 72-74, 78-88, and 90-102 are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the

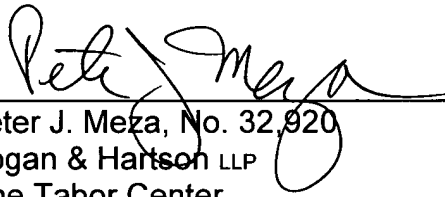
Serial No. 09/546,174  
Reply to Office Action of January 25, 2005

Examiner is requested to contact Applicants' attorney at the telephone number listed below.

A Request for Two-Month Extension of Time is included with this Amendment. No further fees are believed due, however, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

6/7, 2005

Respectfully submitted,

  
Peter J. Meza, No. 32,920  
Hogan & Hartson LLP  
One Tabor Center  
1200 17th Street, Suite 1500  
Denver, Colorado 80202  
(719) 448-5906 Tel  
(303) 899-7333 Fax